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ARRANGEMENTS FOR INTERGOVERNMENTAL MEETINGS

ARRANGEMENTS FOR THE FIRST SESSION OF THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE KYOTO PROTOCOL

Note by the secretariat*

Summary

In anticipation of the entry into force of the Kyoto Protocol, planning has begun for convening the inaugural session of the Conference of the Parties serving as the meeting of the Parties to the Protocol (COP/MOP 1). This note addresses some of the procedural and organizational issues concerning the arrangements for this **first** session.

At the seventeenth session of the Subsidiary Body for Implementation, Parties are invited to consider some proposals and options relating to the arrangements for COP/MOP 1, with a view to submitting recommendations to the Conference of the Parties at its eighth session concerning:

(a) Convening a combined session of the COP and COP/MOP 1;

(b) Application by the COP/MOP of the draft rules of procedure of the COP being applied;

(c) Application by the COP/MOP of the financial procedures of the COP.

* This document is submitted late because of the need to undertake extensive internal consultations.

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1 – 3	3
	A. Mandate	1	3
	B. Scope of the note	2	3
	C. Possible action by the Subsidiary Body for Implementation	3	3
II.	LEGAL AND INSTITUTIONAL CONTEXT	4 – 10	3
	A. Background	4 – 5	3
	B. Institutional framework of the Kyoto Protocol	6 – 10	4
III.	ISSUES FOR CONSIDERATION	11 – 38	4
	A. Organization of work of the first session of the Conference of the Parties serving as the meeting of the Parties of the Kyoto Protocol	11 – 26	4
	B. Application of the rules of procedure of the Conference of the Parties	27 – 35	7
	C. Application of the financial procedures of the Conference of the Parties	36 – 38	9

Annex

Indicative list of possible elements of a single agenda for a combined session of the Conference of the Parties and the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol	10	

I. INTRODUCTION

A. Mandate

1. The Subsidiary Body for Implementation (SBI), at its sixteenth session, took note of the information contained in document FCCC/SBI/2002/4 and views expressed by Parties on the procedural issues concerning arrangements for the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (COP/MOP 1). The SBI agreed to consider this matter further at its seventeenth session.

B. Scope of the note

2. This document addresses a number of important procedural and organizational issues concerning arrangements for the **first session** of the COP/MOP, in anticipation of the entry into force of the Kyoto Protocol (see table of contents). Arrangements for subsequent sessions of the COP/MOP could be made drawing on the experience of COP/MOP 1. Specific proposals and recommendations are made, in an effort to focus discussion among Parties during SBI 17.

C. Possible action by the Subsidiary Body for Implementation

3. The SBI is invited to consider and forward to the Conference of the Parties at its eighth session (COP 8) recommendations on the arrangements for COP/MOP concerning:

(a) The organization of work of COP/MOP 1;

(b) The application by the COP/MOP of the draft rules of procedure of the COP being applied;

(c) The application by the COP/MOP of the financial procedures of the COP.

A contact group may be formed or informal consultations held on this matter.

II. LEGAL AND INSTITUTIONAL CONTEXT

A. Background

4. Article 13, paragraph 6, of the Kyoto Protocol[1] states that the first session of the Conference of the Parties serving as the meeting of the Parties (COP/MOP 1) shall be convened by the secretariat in conjunction with the first session of the Conference of the Parties (COP) that is scheduled after the date of entry into force of the Protocol. Information currently available indicates that it is possible that COP/MOP 1 could be held in conjunction with COP 9, which is scheduled to be held within the period 1 to 12 December 2003.

5. In anticipation of the entry into force of the Protocol, the secretariat has begun planning for the first session of the COP/MOP. During initial discussions at SBI 16, a wide range of views were expressed on the procedural and organizational issues concerning COP/MOP 1. Parties emphasized that COP/MOP 1 should be organized in such a way as to ensure maximum efficiency and avoid duplicating work of the COP.

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[1] References to Articles in this document refer to Articles of the Kyoto Protocol unless otherwise stated.

B. Institutional framework of the Kyoto Protocol

6. The Kyoto Protocol strengthens and supplements the Convention. It embodies the framework of the Convention, shares its ultimate objective and is guided by its principles. The Protocol also reaffirms and continues to advance the commitments contained in the Convention, building on the provisions of the Convention.

7. Only Parties to the Convention can become Parties to the Protocol, and the institutions established under the Convention should serve the Protocol. This approach aims to promote synergy, ensure a pragmatic approach, and minimize operational costs associated with the implementation of the Convention and the Protocol. In addition, this approach promotes integration and efficiency in the work of the COP and the COP/MOP by avoiding proliferation of new institutions and duplication of work.

8. Accordingly, the Protocol provides that, inter alia:

(a) The Conference of the Parties, the supreme body of the Convention, shall serve as the meeting of the Parties to the Protocol (Article 13.1);

(b) The subsidiary bodies established under Articles 9 and 10 of the Convention shall serve as the subsidiary bodies of the Protocol (Article 15.1);

(c) The secretariat established under the Convention shall serve as the secretariat of the Protocol (Article 14.1).

Unlike other multilateral agreements, the Protocol does not establish a **Meeting of the Parties**.

9. Parties to the Convention that are not Parties to the Protocol may participate as observers in the sessions of the COP/MOP and the subsidiary bodies of the Protocol. Only Parties to the Protocol shall participate in decision-making (Article 13.2 and Article 15.2).

10. The Protocol also provides that the procedural arrangements adopted by the COP shall apply mutatis mutandis to the Protocol. The rules of procedure of the COP and the financial procedures applied under the Convention shall be applied mutatis mutandis under the Protocol, unless otherwise decided by consensus by the COP/MOP (Article 13.5). In addition, the following shall apply mutatis mutandis to the Protocol:

(a) The arrangements for the functioning of the secretariat (Article 14.2);

(b) The provisions relating to the functioning of the subsidiary bodies (Article 15.1);

(c) The guidance by the COP to the entity or entities entrusted with the operation of the financial mechanism (Article 11.2);

(d) The provisions relating to the settlement of disputes (Article 19).

III. ISSUES FOR CONSIDERATION

A. Organization of work of the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol

11. The Protocol provides that the first session of the COP/MOP shall be convened **in conjunction with** the first session of the COP that is scheduled after the date of entry into force of the Protocol. Two options that would satisfy this provision are:

(a) A combined session of the COP and COP/MOP 1, with one single agenda;

(b) Separate sessions of the COP and the COP/MOP, each with its own agenda.

12. Neither option is without complications. Among the important issues that must be considered in determining how to organize the sessional period are how to address the "common" issues of concern under the Convention and the Protocol, arrangements relating to the bureaux of the COP/MOP and the subsidiary bodies of the Protocol, approval of credentials, and participation of observers. These issues also affect the subsidiary bodies of the Convention and of the Protocol.

13. The "common" issues under the Convention and the Protocol include:

(a) The financial mechanism under Article 11 of the Convention and Article 11 of the Protocol;

(b) National greenhouse gas inventories and national communications under Article 12 of the Convention and Articles 7 and 8 of the Protocol, and in accordance with relevant decisions of the COP and the COP/MOP;

(c) Capacity-building under Article 4 of the Convention and Article 10 of the Protocol;

(d) Development and transfer of technology under Article 4 of the Convention and Article 10 of the Protocol;

(e) "Good practices" in policies and measures under Article 4, paragraph 2, and Article 7, paragraph 2, of the Convention and Article 2 of the Protocol;

(f) Scientific and technical research and systematic observation under Article 5 of the Convention and Article 10 (d) of the Protocol;

(g) Education, training, public awareness, participation and access to information under Article 6 of the Convention and Article 10 (e) of the Protocol;

(h) Adverse effects of climate change and impacts of response measures under Article 4, paragraphs 8 and 9, of the Convention and Article 2, paragraph 3, and Article 3, paragraph 14, of the Protocol;

(i) Matters relating to land use, land-use change and forestry under Article 4, paragraphs 1 and 2, of the Convention and Article 3, paragraphs 3 and 4, of the Protocol;

(j) Review of the Convention under Article 4, paragraph 2 (d), and Article 7, paragraph 2 (a), of the Convention, and review of the Protocol under Article 3, paragraph 9, Article 9 and Article 13, paragraph 4, of the Protocol.

1. Combined session

14. A combined session of the COP and the COP/MOP 1, with a single agenda including Convention issues, Protocol issues and "common" issues, would promote coherency and synergy in dealing with "common" issues, and minimize duplication of work. It would at the same time maximize efficiency in meeting support services (i.e. limit increases in documentation and redundancy in conference support). This approach would facilitate the participation of Parties, especially those with small delegations.

15. A single report of the combined session of the COP and the COP/MOP would be prepared. During the same sessional period, sessions of the subsidiary bodies could also be convened to undertake further substantive work on various issues, if necessary.

16. The participation in a combined session of Parties to the Convention that are not Parties to the Protocol raises a number of issues. Parties **only** to the Convention may contribute to discussions on issues relating **only** to the Protocol, but decisions on these issues would be taken by the COP/MOP.

17. The way in which items on the agenda were taken up would require particular attention, and explanation, in the context of the organization of work and the opening of the combined session. The presiding officer, in taking up a particular item of the agenda, would need to make clear whether it was a Convention, or COP, item; a Protocol, or COP/MOP, item; or a "common" Convention/Protocol, COP and COP/MOP, item. Decisions would be either of the COP (with CP symbol) or of the COP/MOP (with CMP symbol). In addition, Parties to the Protocol could also decide at any time to convene separate or closed meeting(s).

18. This also has implications for the seating arrangements of Parties. In order to avoid the disruption of frequent reconfiguration of the conference rooms between "Convention" and "Protocol" seating arrangements, the COP seating arrangements could be maintained, but with Parties to the Protocol having, for example, a different colour for their country name plates.

19. The annex to this document contains an indicative list of possible elements of a provisional agenda of a combined session. This list may help to conceptualize how the session could be organized and how "common" and specific issues under the Convention and the Protocol could be addressed.

2. Separate sessions

20. Notwithstanding the general thrust of the Protocol towards integration (see paragraph 7 above), a second option would be to convene separate sessions of the COP and the COP/MOP during a sessional period, with the sessions held either concurrently or sequentially.

21. The option follows a more "traditional" approach, with each body having its own agenda, organizing its own work, and adopting its own report. "Joint" meetings would also be an option for "common" issues.

22. This approach, however, may result in a loss of synergy between the work of the COP and of the COP/MOP, as well as overlaps, inconsistencies and duplication of work. The "common" issues, for example, could be addressed twice, with the likelihood of a proliferation of meetings and contact groups within sessional periods that are already extremely busy.

23. In addition, this approach may cause pressure on delegations participating in the meetings, contact groups and the work of both bodies. There may also be increased costs for the work associated with the Protocol, as the secretariat would be required to provide staff, conference-servicing facilities and documentation for each body. There would also be implications for the schedule and work of the sessions of the subsidiary bodies.

3. Conclusions

24. Early agreement on the arrangements for the organization of COP/MOP 1 is needed so that Parties can prepare appropriately and planning can proceed. Such a decision could be taken on the understanding that it would be for the purposes of this first session of the COP/MOP only, and that arrangements for future sessions could be made based on the experience of COP/MOP 1.

25. Such agreement could take the form of a decision of COP 8 making recommendations to the COP/MOP on the organization of the first session of COP/MOP. This would follow the practice established in 1995, when the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change made such recommendations to COP 1 (FCCC/CP/1995/1, and A/AC.237/91 and Add.1).

26. In this context, the SBI may wish to forward to the COP at its eighth session, for adoption, a draft decision which:

(a) Recommends that COP/MOP 1 be organized as a combined session of the COP and the COP/MOP, with a single agenda;

(b) Requests the secretariat to prepare a list of possible elements of the provisional agenda for this combined session, based on the indicative list of elements contained in the annex below, and make further proposals for the organization of the session for discussion by the SBI at its eighteenth session;

(c) Recommends that the sessions of the subsidiary bodies be convened in conjunction with this combined session;

(d) Recommends that decisions on arrangements for subsequent sessions of the COP/MOP be taken in the light of experience at COP/MOP 1.

B. Application of the rules of procedure of the Conference of the Parties

27. The Convention provides that the COP shall adopt its own rules of procedure as well as those of the subsidiary bodies established under the Convention (Article 7.3 of the Convention). Pursuant to this provision, draft rules of procedure have been prepared (document FCCC/CP/1996/2). Due to lack of consensus on draft rule 42 (concerning voting), the draft rules of procedure of the COP are yet to be adopted, but have been applied by the COP with the exception of rule 42.

28. The Protocol provides that the rules of procedure of the COP shall be applied mutatis mutandis under the Protocol (Article 13.5). At SBI 16, Parties expressed the view that the draft rules of procedure of the COP being applied should also be applied by the COP/MOP. In the application of the draft rules of procedure under the Protocol, a number of issues arise for which it will be necessary to have a clear understanding. These relate to:

(a) The officers of the COP/MOP and of the subsidiary bodies of the Protocol;

(b) The approval of credentials;

(c) The participation of observers.

1. Officers of the COP/MOP and of the subsidiary bodies of the Protocol

29. The Protocol provides that when the Conference of the Parties serves as the meeting of the Parties to the Protocol any member of the Bureau of the COP representing a Party to the Convention but, at that time, not a Party to the Protocol, shall be replaced by an additional member to be elected by and from among the Parties to the Protocol (Article 13.3). There is a similar provision relating to the subsidiary bodies (Article 15.3).

30. In the implementation of the procedures for the replacement of officers of the bureaux, it should be understood that the term of office of any replacement officer would expire at the same time as that of the officer being replaced. Furthermore, it should be understood that the consultations on the election of

officers should also encompass consultations on the election of replacement members by and from among Parties to the Protocol, if appropriate.

2. Approval of credentials

31. The procedures for the submission and approval of the credentials of Parties to the Convention are contained in rules 17–21 of the draft rules of procedure of the COP being applied. In applying these rules under the Protocol, it would be desirable to avoid a situation where Parties to the Protocol would be required to submit two sets of credentials – one for the COP and one for the COP/MOP. In this circumstance, the draft rules could be applied on the understanding that:

(a) Credentials from Parties to the Protocol would apply for the participation of their representatives in the sessions of the COP and the COP/MOP. This would encompass the provision of full powers to participate, vote and serve as officers of the COP and the COP/MOP, as well as of the subsidiary bodies and any sessional bodies established;

(b) A single report on credentials would be submitted to the COP and the COP/MOP for approval following established procedures.

3. Participation of observers

32. The Protocol provides for the following categories of observers in sessions of the COP/MOP and the subsidiary bodies of the Protocol:

(a) Parties to the Convention that are not Parties to the Protocol (Article 13.2 and Article 15.2);

(b) The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not party to the Convention (Article 13.8);

(c) National or international, governmental or non-governmental organizations (Article 13.8).

33. Rules 6 and 7 of the draft rules of procedure of the COP being applied further elaborate the admission and participation of observers in the sessions of the COP. In applying these provisions under the Protocol as they apply to organizations mentioned in paragraph 32 (c) above, it would be desirable to maintain a single admission process for the COP and the COP/MOP.

34. The current procedures could be extended and the responsibility for the admission of observer organizations to the sessions of the COP and the COP/MOP could be vested in the COP, unless otherwise decided by the COP/MOP. This would imply that observer organizations admitted by the COP at its previous sessions, and at future sessions, would be admitted to the sessions of the COP/MOP.

4. Conclusion

35. The SBI may wish to incorporate the proposals outlined above into the draft decision to the COP at its eighth session, referred to in paragraph 26 above, including a confirmation that the COP/MOP would apply the draft rules of procedure of the COP being applied, with the exception of rule 42 (as contained in document FCCC/CP/1996/2).

C. Application of the financial procedures of the Conference of the Parties

36. The Protocol states that the financial procedures applied under the Convention shall be applied mutatis mutandis under the Protocol, except as may be otherwise decided by consensus by the COP/MOP (Article 13.5). The financial procedures of the COP, its subsidiary bodies and the secretariat are contained in decision 15/CP.1.

37. The major issues arising in applying the financial procedures under the Protocol relate to the preparation and approval of the biennial programme budget. The large number of issues common to the Convention and to the Protocol will lead to an integrated work programme. Moreover, the Convention secretariat is designated as the secretariat for the Protocol. In these circumstances, it would be desirable to have a single budget process, recognizing that both the COP and the COP/MOP would need to have a role in the adoption of the budget or elements thereof.

38. The secretariat could be requested to reflect this approach in the preparation of the programme budget for the biennium 2004–2005.

Annex

INDICATIVE LIST OF POSSIBLE ELEMENTS OF A SINGLE AGENDA FOR A COMBINED SESSION OF THE CONFERENCE OF THE PARTIES AND THE FIRST SESSION OF THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE KYOTO PROTOCOL

A. "Common" organizational issues for the COP and the COP/MOP

1. Adoption of the rules of procedure.
2. Adoption of the agenda.
3. Election of officers and replacements, as appropriate.
4. Admission of organizations as observers.
5. Organization of work.
6. Date and venue of sessions.
7. Calendar of meetings.
8. Adoption of the report on credentials.
9. Reports of the subsidiary bodies.
10. Statements/high-level segment attended by ministers and senior officials.

B. "Common" substantive issues under the Convention and Protocol: relevant to the COP and the COP/MOP

1. Financial mechanism.
2. National greenhouse gas inventories and national communications.
3. Capacity-building.
4. Development and transfer of technology.
5. "Good practices" in policies and measures.
6. Scientific and technical research and systematic observation.
7. Education, training, public awareness, participation and access to information under Article 6 of the Convention and Article 10 (e) of the Protocol.

8. Adverse effects of climate change and impacts of response measures under Article 4, paragraphs 8 and 9, of the Convention and Article 2, paragraph 3, and Article 3, paragraph 14, of the Protocol.

9. Matters relating to land use, land-use change and forestry: good practice guidance.

10. Review of the Convention under Article 4, paragraph 2 (d), and Article 7, paragraph 2 (a), of the Convention and review of the Protocol under Article 3, paragraph 9, Article 9 and Article 13, paragraph 4, of the Protocol.

11. Administrative and financial matters.

C. Substantive issues under the Convention: relevant only to the COP

1. Activities implemented jointly under the pilot phase.

D. Substantive issues under the Protocol: relevant only to the COP/MOP

1. National systems, adjustments and guidelines under Articles 5, 7 and 8 of the Protocol.[1]

2. Matters relating to land use, land-use change and forestry: definitions and modalities for including afforestation and reforestation project activities under the clean development mechanism.

3. Mechanisms under Articles 6, 12 and 17 of the Protocol.

4. Procedures and mechanisms relating to compliance under the Protocol.

5. Impact of single projects on emissions in the commitment period.

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[1] With the exception of national greenhouse gas inventories and national communications, which is a "common issue" under the Convention and the Protocol.